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TAXATION: RETALIATORY TAX ON OUT OF STATE INSURERS

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TAXATION: RETALIATORY TAX ON OUT OF STATE INSURERS.

6 Assembly Constitutional Amendment No. 27. Revises provisions authorizing retaliatory taxation on out of state insurers; provides that when California insurer has imposed on it by laws of another state or country a greater tax, obligation, or restriction than an insurer of such state or country doing business in California has imposed on it by California, then California may impose such additional tax, obligation, or restriction on insurers from such other state or country.

YES

NO

(For Full Text of Measure, See Page 9, Part II)

Analysis by the Legislative Counsel

This measure would amend subdivision (f) of Section 14½ of Article XIII of the State Constitution, which now provides that when any other state or country taxes a California insurance company or its agents doing business in that state or country, to a greater extent than it taxes insurance companies formed in its own state, California may impose on the insurance companies of that state or country doing business in California a tax which is the same as that imposed by the other state or country on the California companies.

The amendment would provide instead that whenever any other state or country imposes or would impose on a California insurance company or its agents doing business in that state or country, a tax greater than that imposed by California on the insurance companies domiciled in that other state or country but doing business in California, this State shall impose on such companies domiciled in such other state or country the same taxes as are imposed by the other state or country on California insurance companies doing business there.

The amendment would not apply to any personal income taxes, ad valorem property taxes, or special assessments imposed prior to the amendment by another state or country in connection with any type of insurance other than property insurance; but any tax deductions allowed with respect to property taxes paid would be taken into consideration in determining the propriety and extent of the tax imposed by California on insurance companies formed in other states and doing business in this State.

As used in this analysis "tax" includes taxes, fines, penalties, licenses, fees, deposits of money or securities or other obligations, or prohibitions or restrictions imposed on an insurance company or its agents or representatives.

Argument in Favor of Proposition No. 6

Forty-four states, including California, have enacted insurance company retaliatory laws. This proposal revises the provisions of California's constitution to parallel those in the laws of the 43 other states.

Retaliatory laws primarily affect the total amount of taxes, licenses and fees a foreign

insurer must pay to a state for doing business therein. As between California and another state that has higher taxes, licenses and fees than California, the retaliatory law operates automatically to impose on insurers from such other state the same higher taxes, licenses and fees that such state imposes on California insurers.

The present California constitutional provision permits retaliation only if the other state discriminates between insurers domiciled in that state and California insurers. This requirement is unique to California, and is not in the law of any other state.

The principal change made by this amendment deletes this unique requirement, so that California's retaliatory law hereafter will apply to insurers from other states in the same manner the other 43 states now apply their retaliatory laws to California insurers.

Additionally, this amendment changes the language of California's constitutional provision to conform with that of the model retaliatory law, which model law was added to the California Insurance Code by Chapter 2120, Laws 1959, and has been included in all modern insurance codes enacted by other states since 1958.

These phraseology changes prescribe in detail the rules included in this model law for determining how and when retaliation is to be applied. Adding these details to the Constitution does not change the substance of the law in these respects, but will prevent any possible confusion in applying the Insurance Code retaliatory provisions, and will promote uniformity in interpreting retaliatory laws throughout the country.

Including such details of insurance company taxation in the Constitution has been done in California since 1910. Other Constitutional provisions prescribe the tax base and rate and limit the Legislature's power to change the rate. Under those sections, insurance companies are taxed on the basis of insurance premiums received, a form of gross income tax which results in \$2.35 tax on every \$100 of premiums paid by California's residents, less a wise deduction for local real estate taxes paid on investments in California principal office properties.

This particular constitutional amendment will close the gap that now permits foreign

insurers from some states to escape payment of retaliatory taxes to California, and will bring in additional tax revenue from such foreign insurers.

This amendment received the unanimous vote support of the members of the California State Legislature at the 1963 Session,

and its adoption by the people is recommended. Vote YES.

LESTER A. McMILLAN
Assemblyman, 61st District

LOU A. CUSANOVICH
Assemblyman, 64th District

PUBLIC RETIREMENT FUNDS. Assembly Constitutional Amendment

7 No. 13. Provides Legislature may authorize investment of moneys of any public pension or retirement fund, except Teachers Retirement Fund, in stocks, shares or other obligation of any corporation.

YES

NO

(For Full Text of Measure, See Page 10, Part II)

Analysis by the Legislative Counsel

At present Section 13 of Article XII of the State Constitution prohibits the State from becoming a stockholder in any corporation and Section 31 of Article IV of the State Constitution prohibits the Legislature from authorizing any political subdivision of the State from becoming a stockholder in any corporation. This measure would amend Section 13 of Article XII of the State Constitution to permit the Legislature to authorize the investment of moneys of any public pension or retirement fund except the Teachers Retirement Fund in the stock, shares, or other obligations of any corporation.

Argument in Favor of Proposition No. 7

We urge your YES vote on Proposition 7. This measure would change the present limitation in Section 13 of Article XII of the Constitution which prohibits investment by the State in the stock of any corporation. The Legislature would be permitted to authorize by law the investment of money of any public pension or retirement fund in the stock, shares, or other obligations of any corporation. The State Teachers Retirement System would be specifically excluded from this authorization.

The fundamental reason for making this change is to enable such public funds to increase their income from investments. Public retirement fund income stems from three primary sources, contributions from employee members, those from taxpayer employers, and from investment income. Increased earnings from investments will obviously benefit both employees and their taxpayer employers.

The Joint Legislative Committee on Pensions held extensive hearings on the investment problems of public retirement systems. At these hearings nationally known investment authorities testified about the urgency of making this change. They pointed out that inflation has already made serious inroads in the purchasing power of retirement benefits based on a fixed income dollar. They favored an investment policy based both on fixed income dollars and equity investments which can appreciate in value, thus offsetting inflationary trends.

Many other states, the Federal Reserve System, universities such as Stanford, California Institute of Technology, Harvard, Yale, and most private companies invest their retirement funds in corporate stocks, and have done so successfully for years. The University of California is not under the constitutional prohibition against stock investment; its retirement reserve has for years been partly invested in them. As of the latest report, some \$14 million (16 per cent) of its total reserve of \$83 million is in common and preferred stocks. The average rate of return on stocks in the University retirement portfolio has been about two percentage points higher than that on the portfolio in government bonds, corporate bonds, and mortgages.

The State Employees Retirement System, the largest fund which would be affected by this proposition, at the end of the latest fiscal year had \$1.743 billion invested in government securities, and corporate bonds. The System received 22 per cent of its total income for the fiscal year from earnings on its investment, but its net earnings rate was only 3.85 per cent. To illustrate what could happen under this proposition, had 25 per cent of the portfolio been invested in stocks, at the University rate differential the System would have earned an additional \$8 million. A University of Chicago study of earnings from stocks from 1926 to 1960 disclosed that the average return during the entire period was 9 per cent, which certainly supports the University experience.

The flexible approach to investments which would be enabled by approval of this proposition has been well proved by other systems. It is time for California to update its public retirement systems. A YES vote on this proposed amendment will protect such funds and help control their future costs.

DON A. ALLEN, Chairman
Joint Legislative Retirement
Committee
Assemblyman 63rd District

ALAN SHORT, Vice Chairman
Senator 20th District

E. RICHARD BARNES, Member
Assemblyman 78th District

5	VETERANS' TAX EXEMPTION FOR WIDOWS. Senate Constitutional Amendment No. 15. Increases from \$5,000 to \$10,000 amount of property widow of veteran may own and still receive exemption.	YES	
		NO	

(This proposed amendment expressly amends an existing section of the Constitution; therefore, **EXISTING PROVISIONS** proposed to be **DELETED** are printed in **STRIKEOUT TYPE**; and **NEW PROVISIONS** proposed to be **INSERTED** are printed in **BLACK-FACED TYPE**.)

**PROPOSED AMENDMENT TO
ARTICLE XIII**

That the first sentence of Section 14 of Article XIII of the Constitution of the State be amended to read:

The (a) property to the amount of one thousand dollars (\$1,000) of every resident of this State who has served in the Army, Navy, Marine Corps, Coast Guard or Revenue Marine (Revenue Cutter) Service of the United States (1) in time of war, or (2) in time of peace, in a campaign or expedition for service in which a medal has been issued by the Congress of the United States, and in either case has received an honorable discharge therefrom, or who after such service of the United States under such conditions has continued in such service, or who in time of war is in such service, or (3) who has been released from active duty because of disability resulting from such service in time of peace or under other honorable conditions, or lacking such amount of property in his own name, so much of the property of the wife of any such person as shall be necessary to equal said amount shall be exempt from taxation; provided, this exemption shall not apply to any person described in this subparagraph (a) owning property of the value of five thousand dollars (\$5,000)

or more, or where the wife of such person owns property of the value of five thousand dollars (\$5,000) or more; and the (b) property to the amount of one thousand dollars (\$1,000) of the widow resident in this State, or if there be no such widow, of the widowed mother resident in this State, of every person who has so served and has died either during his term of service or after receiving an honorable discharge from said service, or who has been released from active duty because of disability resulting from such service in time of peace or under other honorable conditions; and the shall be exempt from taxation; provided this exemption shall not apply to any widow described in this subparagraph (b) owning property of the value of ten thousand dollars (\$10,000) or more, nor to any widowed mother described in this subparagraph (b) owning property of the value of five thousand dollars (\$5,000) or more; and (c) property to the amount of one thousand dollars (\$1,000) of pensioned widows, fathers, and mothers, resident in this State, of soldiers, sailors and marines who served in the Army, Navy, Marine Corps, Coast Guard or Revenue Marine (Revenue Cutter) Service of the United States shall be exempt from taxation; provided, this exemption shall not apply to any person named herein described in owning property of the value of five thousand dollars (\$5,000) or more, or where the wife of such soldier or sailor owns property of the value of five thousand dollars (\$5,000) or more this subparagraph (c) owning property of the value of five thousand dollars (\$5,000) or more.

TAXATION: RETALIATORY TAX ON OUT OF STATE INSURERS.

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YES

NO

(This proposed amendment expressly amends an existing section of the Constitution; therefore, **EXISTING PROVISIONS** proposed to be **DELETED** are printed in **STRIKEOUT TYPE**; and **NEW PROVISIONS** proposed to be **INSERTED** are printed in **BLACK-FACED TYPE**.)

**PROPOSED AMENDMENT TO
ARTICLE XIII**

That the Constitution of the State be amended by amending subdivision (f) of

Section 14 of Article XIII thereof, to read:

(f) The tax imposed on insurers by this section is in lieu of all other taxes and licenses, state, county, and municipal, upon such insurers and their property, except:

(1) Taxes upon their real estate.

(2) That an insurer transacting title insurance in this State which has a trust department or does a trust business under the banking laws of this State is subject to taxation with respect to such trust department or trust business to the same extent and in

the same manner as trust companies and the trust departments of banks doing business in this State.

(3) When by the laws of any other state or country any taxes, fines, penalties, licenses, fees, deposits of money or securities or other obligations or prohibitions are imposed on insurers of this State doing business in such other state or country, or upon their agents therein, in excess of those imposed upon insurers of such other state or country or upon their agents therein, so long as such laws continue in force, the same obligations and prohibitions of whatsoever kind may be imposed by the Legislature upon insurers of such other state or country doing business in this State, or upon their agents herein.

(3) When by or pursuant to the laws of any other state or foreign country any taxes, licenses and other fees, in the aggregate, and any fines, penalties, deposit requirements or other material obligations, prohibitions or restrictions are or would be imposed upon California insurers, or upon the agents or representatives of such insurers, which are in excess of such taxes, licenses and other fees, in the aggregate, or which are in excess of the fines, penalties, deposit requirements or other obligations, prohibitions, or restrictions directly imposed upon similar insurers, or upon the agents or representatives of such insurers, of such other state or country under the statutes of this State; so long as such laws of such other state or country continue in force or are so applied, the same taxes, licenses and other fees, in the aggregate, or fines, penalties or deposit requirements or other material obligations, prohibitions, or restrictions, of whatever kind shall be imposed upon the insurers, or upon the agents or representatives of such insurers, of such other state or country doing business or seeking to do business in Cal-

ifornia. Any tax, license or other fee or obligation imposed by any city, county, or other political subdivision or agency of such other state or country on California insurers or their agents or representatives shall be deemed to be imposed by such state or country within the meaning of this paragraph (3) of subdivision (f).

The provisions of this paragraph (3) of subdivision (f) shall not apply as to personal income taxes, nor as to ad valorem taxes on real or personal property nor as to special purpose obligations or assessments heretofore imposed by another state or foreign country in connection with particular kinds of insurance, other than property insurance; except that deductions, from premium taxes or other taxes otherwise payable, allowed on account of real estate or personal property taxes paid shall be taken into consideration in determining the propriety and extent of retaliatory action under this paragraph (3) of subdivision (f).

For the purposes of this paragraph (3) of subdivision (f) the domicile of an alien insurer, other than insurers formed under the laws of Canada, shall be that state in which is located its principal place of business in the United States.

In the case of an insurer formed under the laws of Canada or a province thereof, its domicile shall be deemed to be that province in which its head office is situated.

The provisions of this paragraph (3) or subdivision (f) shall also be applicable to reciprocals or interinsurance exchanges and fraternal benefit societies.

(4) The tax on ocean marine insurance.

(5) Motor vehicle and other vehicle registration license fees and any other tax or license fee imposed by the State upon vehicles, motor vehicles or the operation thereof.

PUBLIC RETIREMENT FUNDS. Assembly Constitutional Amendment

7

No. 13. Provides Legislature may authorize investment of moneys of any public pension or retirement fund, except Teachers Retirement Fund, in stocks, shares or other obligation of any corporation.

YES

NO

(This proposed amendment expressly amends an existing section of the Constitution, therefore, **NEW PROVISIONS** proposed to be **INSERTED** are printed in **BLACK-FACED TYPE**.)

**PROPOSED AMENDMENT TO
ARTICLE XII**

Sec. 13. The State shall not in any manner loan its credit, nor shall it subscribe to, or be interested in the stock of any company, association, or corporation, except that the State and each political subdivision, district, municipality, and public agency thereof is hereby authorized to acquire and hold shares of the capital stock of any mutual water company or corporation when such stock is so acquired or held for the purpose of furnish-

ing a supply of water for public, municipal or governmental purposes; and such holding of such stock shall entitle such holder thereof to all of the rights, powers and privileges, and shall subject such holder to the obligations and liabilities conferred or imposed by law upon other holders of stock in the mutual water company or corporation in which such stock is so held.

Notwithstanding provisions to the contrary in this section and Section 31 of Article IV of this Constitution, the Legislature may authorize the investment of moneys of any public pension or retirement fund other than the Teachers Retirement Fund provided in Section 13901 of the Education Code, any successor thereto, in the stock, shares, or other obligations of any corporation.